



PATENT
80541

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re U.S. Patent Application

Applicant: Gijsbert Johan Jansen

Serial No.: 09/673,779

Filed: January 2, 2001

For: **METHOD FOR THE RAPID
DETERMINATION OF
BACTERIA**

Examiner: Jeffrey Fredman

Art Unit: 1637

) Confirmation No.: 4107
)
) I hereby certify that this
) correspondence is being deposited
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) Mail Stop AMENDMENT,
) Commissioner of Patents, P.O. Box
) 1450, Alexandria, VA, 22313-1450, on
)
) April 20, 2005
)

Gerald T. Shekleton

Gerald T. Shekleton Reg. No. 27,466

AMENDMENT

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Office Action of January 10, 2005 has been carefully reviewed and the following amendments and remarks are made in response thereto.

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that does not use enzymes (Column 9, lines 47-50). Thus, a person of ordinary skill, if starting from Nicolas, would not design a lysis buffer that has an enzyme if he were to follow the teachings of Sheiness. Claim 1 requires different lysis buffers based on the outcome of a Gram staining and the buffers require an enzyme. A person of ordinary skill could not fail to follow the clear and unambiguous teaching of Sheiness to develop one lysis buffer for all circumstances; as a result, this person of ordinary skill would not develop applicant's invention, having viewed Sheiness.

Moreover, a person of ordinary skill would not combine Nicolas with Sheiness because Sheiness is not concerned with *in situ* work. It is not at all concerned with keeping morphology intact. Once nucleic acid is released from the organism only the nucleic acid is ever detected. Nothing else, let alone a morphology, is ever detected. As such, Sheiness does not contain any teaching that would convince a person of ordinary skill aiming to develop a suitable *in situ* approach.

Applicant hereby requests reconsideration and reexamination thereof.

With the above amendments and remarks, this application is considered ready for allowance and Applicant earnestly solicits an early notice of same. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to call the undersigned at the below-listed number.

Respectfully submitted,

WELSH & KATZ, LTD.



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Date: April 20, 2005

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